



[Docket No. FR-6182-N-02]

Allocations, Common Application, Waivers, and Alternative Requirements for Disaster Community Development Block Grant Disaster Recovery Grantees; Second Allocation

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice allocates a total of \$85,291,000 in Community Development Block Grant disaster recovery (CDBG-DR) funds appropriated by the Additional Supplemental Appropriations for Disaster Relief Act, 2019 (the Act). The \$85,291,000 in CDBG-DR funds allocated by this notice is for the purpose of assisting in long-term recovery from major disasters that occurred in 2018 and 2019. The allocations in this notice add to the funding previously allocated in the January 27, 2020 notice for these disasters. The Act requires HUD to allocate any funds not identified for long-term recovery from major disasters to be allocated for mitigation activities for 2018 disasters. Accordingly, under a separate notice, HUD will allocate the remaining \$185,730,000 of funds available under the Act for mitigation activities in the most impacted and distressed areas resulting from a major disaster that occurred in 2018. This notice also contains a waiver and alternative requirement addressing the income limits applicable to the Commonwealth of Puerto Rico for its CDBG-DR and CDBG-MIT grants. Additionally, this notice also provides additional flexibility to CDBG-DR grantees as they continue their disaster recovery efforts while also responding to the Coronavirus Disease 2019 (COVID-19) pandemic.

DATES: Applicability Date: [INSERT DATE FIVE DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER.]

FOR FURTHER INFORMATION CONTACT: Jessie Handforth Kome, Acting Director, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 7th Street, SW, Room 7282, Washington, DC 20410, telephone number 202-708-3587. Persons with hearing or speech impairments may access this number via TTY by calling the Federal

Information Relay Service at 800-877-8339. Facsimile inquiries may be sent to Ms. Kome at 202-708-0033. (Except for the “800” number, these telephone numbers are not toll-free.) Email inquiries may be sent to disaster_recovery@hud.gov.

SUPPLEMENTARY INFORMATION:

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I. Allocations

The Additional Supplemental Appropriations for Disaster Relief Act, 2019 (Pub. L. 116-20, approved June 6, 2019) (Appropriations Act) made \$2,431,000,000 in CDBG-DR funds available for major disasters occurring in 2017, 2018, or 2019, of which \$431,000,000 was for grantees that received funds in response to disasters occurring in 2017. In the January 27, 2020

Federal Register notice (“January 2020 Notice”) HUD allocated \$2,153,928,000 in CDBG-DR funds in accordance with the Appropriations Act for major disasters occurring in 2018 and 2019, and for unmet infrastructure needs for 2017 disasters, as well as \$1,677,500,000 in accordance with the Supplemental Appropriations for Disaster Relief Act, 2018 (Pub. L. 115–254, approved October 5, 2018) (Prior Appropriation) for major disasters occurring in 2018.

This notice allocates an additional \$85,291,000 from the Appropriations Act to address unmet disaster recovery needs through activities authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 *et seq.*) (HCDA) related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation in the “most impacted and distressed” areas resulting from a qualifying major disaster in 2018 and 2019. Qualifying major disasters are those declared by the President pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5121 *et seq.*) (Stafford Act) and identified in Table 1.

HUD has described the applicable waivers and alternative requirements, relevant statutory and regulatory requirements, the grant award process, criteria for action plan approval, updates to duplication of benefits requirements, and eligible disaster recovery activities associated with grants for 2017, 2018, and 2019 disasters in the following *Federal Register* notices (“Prior Notices”): February 9, 2018 at 83 FR 5844, August 14, 2018 at 83 FR 40314, February 19, 2019 at 84 FR 4836, June 20, 2019 at 84 FR 28848, January 27, 2020 at 85 FR 4681¹, August 17, 2020 at 85 FR 50041, and September 28, 2020 at 85 FR 60821. CDBG-DR funds allocated pursuant to this notice are subject to the requirements of the Prior Notices, as amended by provisions in this notice.

¹ The *Federal Register* published minor corrections to Table 1 of the January 27, 2020 notice in a notice published on February 21, 2020, at 85 FR 10182.

The Appropriations Act provides that grants shall be awarded directly to a state, unit of general local government, or Indian tribe at the discretion of the Secretary. Unless noted otherwise, the term “grantee” refers to the entity receiving a grant from HUD under this notice.

Pursuant to the Prior Notices, each grantee receiving an allocation for a 2018 or 2019 disaster is required to primarily consider and address its unmet housing recovery needs. These grantees may, however, propose the use of funds for unmet economic revitalization and infrastructure needs unrelated to the grantee’s unmet housing needs if the grantee demonstrates in its needs assessment that there is no remaining unmet housing need or that the remaining unmet housing need will be addressed by other sources of funds.

Table 1 (below) shows the major disasters that grants under this notice may address and the minimum amount of funds from the Appropriations Act and Prior Appropriations that must be expended in the HUD-identified most impacted and distressed (MID) areas. The information in this table is based on HUD’s review of the impacts from the qualifying disasters and estimates of unmet need.

TABLE 1—ALLOCATIONS UNDER PUBLIC LAWS 115-254 AND 116-20
FOR 2018 & 2019 DISASTERS

Disaster Year	Disaster Nos.	Grantee	Allocation under Public Law 115-254 (covered by the January 27, 2020 notice)	Allocation under Public Law 116-20 (covered by the January 27, 2020 notice)	Unmet needs allocation under Public Law 116-20 (covered by this Notice)	Combined allocation for unmet needs (Pub. L. 115-254 and 116-20)	Minimum combined amount from Public Law 115-254 and Public Law 116-20 that must be expended for unmet needs recovery in the HUD identified “most impacted and distressed” areas listed herein
2018	4366	Hawaii County, HI	\$66,890,000	\$16,951,000	\$23,720,000	\$107,561,000	(\$107,561,00) Hawaii County.
2018	4396 & 4404	Commonwealth of the Northern Mariana Islands	\$188,652,000	\$55,294,000	\$10,378,000	\$254,324,000	(No less than \$203,459,200) Saipan and Tinian Municipalities.
2019	4454 & 4466	State of Texas	\$0	\$212,741,000	\$14,769,000	\$227,510,000	(No less than \$182,008,000) Cameron, Chambers, Harris, Jefferson, Liberty, Montgomery, and Orange Counties; 78570 (Hidalgo) Zip Code.

							(No less than \$29,139,200) Guanica Municipio; Zip Codes: 00656 (Guayanilla Municipio), 00698 (Yauco Municipio), and 00728 (Ponce Municipio).
2019	4473	Commonwealth of Puerto Rico	\$0	\$0	\$36,424,000	\$36,424,000	
		Totals	\$255,542,000	\$284,986,000	\$85,291,000	\$625,819,000	

Pursuant to the Appropriations Act, HUD has identified the MID areas based on the best available data for all eligible affected areas. A detailed explanation of HUD’s allocation methodology is provided in Appendix A of this notice. In some instances, HUD has identified the entire jurisdiction of a grantee as the HUD-identified MID area. For all other grantees, at least 80 percent of the total funds provided to a grantee under this notice must address unmet disaster needs within the HUD-identified MID areas, as identified in the last column in Table 1. Note that if HUD designates a zip code as a MID area for purposes of allocating funds, the grantee may carry out activities within the whole county (county is indicated in parentheses next to the zip code) as a MID area. The grantee should indicate the decision to carry out activities throughout the whole county in its action plan.

A grantee may use up to 5 percent of the total grant award for grant administration and no more than 15 percent of the total grant award for planning activities. Therefore, HUD will include 80 percent of a grantee’s expenditures for grant administration in its determination that 80 percent of the total award has been expended in the MID areas identified in Table 1. Additionally, expenditures for planning activities may be counted towards a grantee’s 80 percent expenditure requirement, provided that the grantee describes in its action plan how those planning activities benefit the HUD-identified MID areas.

A grantee may determine where to use the remaining 20 percent of the allocation, but that portion of the allocation may only be used to address unmet disaster needs in those areas that the grantee determines are “most impacted and distressed” and that received a presidential major disaster declaration pursuant to the disaster numbers listed in Table 1.

II. Use of Funds

Funds allocated under this notice are subject to the requirements of the Prior Notices, as amended by this notice or subsequent notices. This notice outlines additional requirements imposed by the Appropriations Act that apply to funds allocated under this notice.

The Appropriations Act requires that prior to the obligation of CDBG-DR funds a grantee shall submit a plan detailing the proposed use of all funds. The plan must include criteria for eligibility, and how the use of these funds will address long-term recovery and restoration of infrastructure and housing, economic revitalization, and mitigation in the MID areas. Therefore, the action plan submitted in response to this notice must describe uses and activities that: (1) are authorized under title I of the HCDA or allowed by a waiver or alternative requirement; and (2) respond to a disaster-related impact to infrastructure, housing, or economic revitalization in the MID areas, and if the grantee chooses to do so, how mitigation will be incorporated into recovery activities. To inform the plan, each grantee must conduct an assessment of community impacts and unmet needs and guide the development and prioritization of planned recovery activities, pursuant to section VI.A.2.a. of the February 9, 2018 notice (83 FR 5849).

While CDBG-DR funding is a valuable resource for long-term recovery and mitigation in the wake of major disasters, HUD expects that grantees will take steps to set in place substantial state and local governmental policies to enhance the impact of HUD-funded investments and limit damage from future disasters. The *Federal Register* notice published on February 9, 2018 requires all grantees to describe how they plan to promote sound, sustainable long-term planning (83 FR 5850). To maximize the impact of all available funds, grantees are encouraged to coordinate and align CDBG-DR funds under this notice with activities funded with other CDBG-DR and CDBG-MIT funds, as well as other disaster recovery activities funded by the Federal Emergency Management Agency (FEMA), the U.S. Army Corps of Engineers (USACE), the U.S. Forest Service, and other agencies as appropriate.

For convenience, Table 2 (below) identifies clarifications and modifications to the requirements in the February 9, 2018 notice.

**TABLE 2 – RULES, WAIVERS, AND ALTERNATIVE REQUIREMENTS
ESTABLISHED IN THE PRIOR NOTICES**

Citation	Rules, Waivers, and Alternative Requirements
	August 14, 2018 notice
83 FR 40314	Allowing for unmet economic revitalization and infrastructure needs; also addressed in section I of this notice
83 FR 40317	Use of terminology around an evaluation of the cost or price of a product or service
83 FR 40317	Additional requirements for the comprehensive disaster recovery website
83 FR 40317	Working capital to aid in recovery
83 FR 40317	Underwriting requirements
83 FR 40317	Limitation of use of funds for eminent domain
83 FR 40318	Increased minimum public comment period for action plans and substantial amendments
83 FR 40318	Cost verification
83 FR 40318	Additional specific criteria and conditions to mitigate risk
83 FR 40319	Waiver of Section 414 of the Stafford Act, as amended and addressed in section IV.C.2. of the January 27, 2020 notice (85 FR 4687)
83 FR 40319	Clarification of the environmental review requirements
83 FR 40320	Modification of affordability periods for rental properties
83 FR 40320	CDBG-DR housing assistance and FEMA’s permanent and semi-permanent housing programs
83 FR 40321	Rehabilitation and reconstruction cost-effectiveness
83 FR 40321	Infrastructure planning and design
83 FR 40321	Discipline and accountability in the environmental review and permitting of infrastructure projects
83 FR 40321	CDBG-DR funds as match for FEMA 428 Public Assistance projects
	June 20, 2019 notice
84 FR 28836	Updates to Duplication of Benefits Requirements Under the Stafford Act for Community Development Block Grant (CDBG) Disaster Recovery Grantees (entire notice)
84 FR 28848	Applicability of Updates to Duplication of Benefits Requirements Under the Stafford Act for Community Development Block Grant (CDBG) Disaster Recovery Grantees (only portions described in the January 27, 2020 notice (85 FR 4687))
	February 19, 2019 notice
84 FR 4844	Clarification of green building standards
	January 27, 2020 notice
85 FR 4685	HUD will condition the availability of funds for unmet infrastructure needs for 2017 disasters allocated to grantees that have entered into alternative procedures under section 428 of the Stafford Act
85 FR 4685	Incorporation of waivers and alternative requirements for local government grantees
85 FR 4686	Use of administrative funds across multiple grants
	One-for-one replacement housing, relocation and real property acquisition requirements for multiple grants
85 FR 4687	Duplication of benefits changes
85 FR 4687	Consolidated plan consistency requirements

85 FR 4687	Clarification on affordability periods
85 FR 4687	Clarification and amendment on section 414 of Robert T. Stafford Disaster Relief and Emergency Assistance Act
85 FR 4688	Clarification on procurement requirements
85 FR 4688	Clarification on acquisition of real property, flood and other buyouts to include wildfire-impacted grantees
	August 17, 2020 notice
85 FR 50042	Extension of administrative deadlines to provide flexibility to CDBG–DR grantees as they respond to the impacts of the COVID–19 pandemic.
	September 28, 2020 notice
85 FR 60822	Waiver and Alternative Requirements for Use of FEMA-Approved Elevation Standards for Nonresidential Structures
85 FR 60823	Use of the “Upper Quartile” or “Exception Criteria” for Low- and Moderate-Income Area Benefit Activities (State of Texas only)
85 FR 60824	Use of Standardized Area Median Income (State of Texas only)
85 FR 60827	Authorizing Tourism and Business Marketing Assistance Activities (The Northern Mariana Islands only).
85 FR 60827	Financial Certification Requirements under Public Laws 115-254 and 116-20

III. Overview of Grant Process

III.A. Appropriations Act (Pub. L. 116–20) Action Plan Process

A grantee receiving an allocation under this notice for disasters occurring in 2019 (Commonwealth of Puerto Rico) must submit an action plan per the requirements in section VI.A.2 of the February 9, 2018 notice (83 FR 5849), as modified by the requirements of the August 14, 2018 notice (83 FR 40314), not later than 210 days after the applicability date of this notice, unless the grantee has requested, and HUD has approved an extension of this submission deadline. All requirements of the Prior Notices related to the action plan submission shall apply, including the public comment period which was extended to not less than 30 calendar days under the August 14, 2018 notice (83 FR 40318), and the manner of publication which must include prominent posting on the grantee’s official website (83 FR 40317). Posting information online may not always be an effective way to solicit public comment, particularly in areas with extensive damage limiting the public’s access to electricity, internet, and cellular service as a result of the disaster. Grantees should consider other ways to effectively solicit public comment, in addition to posting information. Each grantee must publish the action plan in a manner that affords citizens, affected local governments, and other interested parties a reasonable opportunity

to examine the contents and provide feedback. Plan publication efforts must meet the effective communications requirements of 24 CFR 8.6 and other fair housing and civil rights requirements, such as the effective communication requirements under the Americans with Disabilities Act.

The grantee must submit an Implementation Plan and a Capacity Assessment that satisfies the requirements of paragraphs VI.A.1.b.(1) and (2) of the February 9, 2018 notice (83 FR 5848) titled *Implementation Plan and Capacity Assessment*.

The grantee must submit information to support the Secretary's certification of proficient financial controls and procurement processes and adequate procedures for proper grant management required by the Appropriations Act. The grantee can submit all of the information required by section VI.A.1.a. of the February 9, 2018 notice (83 FR 5847), paragraphs (1) – (6), as updated and amended by section IV.B.1. of the January 2020 Notice to impose additional requirements related to the duplication of benefits (85 FR 4686) using the “Pub. L. 116-20 and 115-254 CDBG-DR Financial Management and Grant Compliance Certification Checklist” posted on HUD's website. Alternatively, the grantee may request that HUD rely on the submissions made in response to section V.A.1.a. in the August 30, 2019 Main CDBG-MIT Notice (84 FR 45844), as modified by the January 27, 2020 CDBG-MIT Notice allocating funds to the Commonwealth of Puerto Rico (85 FR 4676), to support a new HUD certification for purposes of this allocation, provided, however, that HUD's approval will be conditioned on the requirement that the grantee must update its previous submissions to reflect any material changes. The grantee can use the “Pub. L. 116-20 and 115-254 CDBG-DR Financial Management and Grant Compliance Certification Checklist” Addendum A and B posted on HUD's website to notify HUD of its intention to rely on previous submissions.

For purposes of the Implementation Plan and Capacity Assessment and submissions to support the Secretary's certification, the submission deadlines were amended by section II of the August 17, 2020 notice to provide flexibility to CDBG-DR grantees as they also respond to the

impacts of the COVID-19 pandemic. Grantees must submit the required information within 150 days of the applicability date of this notice.

In the Prior Notices, the Department stated its intention to establish special grant conditions for individual CDBG–DR grants based upon the risks posed by the grantee, including risks related to the grantee’s capacity to carry out the specific programs and projects proposed in its action plan. As described in the Prior Notices, these conditions will be designed to provide additional assurances that programs are implemented in a manner to prevent waste, fraud, and abuse and that the Department has established specific criteria and conditions for each grant award as provided for at 2 CFR 200.206 and 200.208,² respectively, to mitigate the risks of the grant.

III.B. Action Plan Substantial Amendment Process to Incorporate Additional Funds

Each grantee that received an allocation for 2018 or 2019 disasters under the January 2020 Notice and this notice (Commonwealth of the Northern Mariana Islands; Hawaii County, HI; and the State of Texas) is required to submit a substantial amendment to the action plan that was submitted in response to the January 2020 Notice.

The substantial amendment must be submitted not later than 180 days after the initial action plan is approved in whole or in part by HUD or not later than 180 days after the applicability date of this notice, whichever is later, unless the grantee has requested, and HUD has approved an extension of this submission deadline. The substantial amendment must include the additional allocation of funds and address the requirements of this notice.

Grantees that received allocations under the January 2020 Notice for 2018 and 2019 disasters submitted information described in section VI.A.1. of the February 9, 2018 notice (as amended and updated by section IV.B.1. of the January 27, 2020 notice, 85 FR 4686). These submissions supported the Secretary’s evaluation of grantee capacity and the Secretary’s

² Revisions to 2 CFR part 200 became effective on November 12, 2020 (85 FR 49506). In the Prior Notices, the references to requirements for the review of grantee risk and specific conditions were in 2 CFR 200.205 and 200.207, respectively. The revised 2 CFR part 200 regulations apply to funds allocated by this notice.

certification of proficient financial controls and procurement processes and adequate procedures for proper grant management required by the Appropriations Act. Rather than resubmit the same information for allocations under this notice, grantees receiving a second allocation for 2018 and 2019 disasters are required to update submissions for their first allocations to reflect any material changes. This includes updates to: a) the information required by section VI.A.1.a. of the February 9, 2018 notice (83 FR 5847), paragraphs (1) – (6), as updated and amended by section IV.B.1. of the January 2020 Notice (85 FR 4686); and b) to the Implementation Plan and Capacity Assessment that satisfies paragraphs (1) and (2) in section VI.A.1.b. of the February 9, 2018 notice (83 FR 5848). HUD will consider these updates before granting funds allocated by this notice. The submission deadlines were amended by section II of the August 17, 2020 notice to provide flexibility to CDBG–DR grantees as they also respond to the impacts of the COVID-19 pandemic. Grantees must submit the required information within 150 days of the applicability date of this notice.

III.B.1. *Timeline for Action Plan Substantial Amendment.* Additionally, each grantee that received an allocation under the January 2020 Notice for 2018 and 2019 disasters must meet the following requirements to substantially amend its action plan. These steps are only applicable to this substantial amendment process to add the additional allocation under this notice.

- Grantee must consult with affected citizens, stakeholders, local governments, and public housing authorities to determine updates to its needs assessment (as described in paragraph A.7 of section VI of the February 9, 2018 Notice (83 FR 5854)).
- Grantee must amend its action plan to update its impact and needs assessment, modify or create new activities, or reprogram funds in accordance with requirements for substantial amendments in the Prior Notices. Each amendment must be highlighted, or otherwise identified within the context of the entire action plan. The beginning of every substantial amendment must include a: (1) Section that identifies exactly what content is being added, deleted, or changed; (2) chart or table that

clearly illustrates where funds are coming from and where they are moving to; and (3) a revised budget allocation table that reflects all funds.

- Grantee must publish the substantial amendment to its previously approved action plan for disaster recovery in a manner that affords citizens, affected local governments, and other interested parties a reasonable opportunity to examine the amendment's contents and provide feedback, in accordance with requirements published in paragraph IV.A.3. of the August 14, 2018 Notice (83 FR 40318). The manner of publication must include, at a minimum, prominent posting on the grantee's official website for not less than 30 calendar days for public comment.
- Grantee must respond to public comment and submit its substantial amendment to HUD (together with SF-424 and certifications required by Section VI.E. of the February 9, 2018 Notice) no later than 180 days after the grantee's action plan is approved in whole or in part by HUD or not later than 180 days after the applicability date of this notice, whichever comes later.
- HUD will review the substantial amendment within 45 days from date of receipt and determine whether to approve the substantial amendment per criteria identified in this notice and the Prior Notices.
- HUD will send a substantial amendment approval letter, revised grant conditions, and an unsigned grant agreement to the grantee. If the substantial amendment is not approved, HUD will send a letter identifying the substantial amendment deficiencies; the grantee must then re-submit the substantial amendment within 45 days of the notification letter.
- Grantee must ensure that the HUD-approved substantial amendment and HUD-approved action plan are posted prominently on its official website. Each grantee's current version of its entire action plan (including amendments) must be accessible

for viewing as a single document at any given point in time, rather than the public or HUD having to view and cross-reference changes among multiple amendments.

- Grantee must enter the activities from its published substantial amendment into the Disaster Recovery Grant Reporting (DRGR) system and submit the updated DRGR action plan (revised to reflect the HUD-approved substantial amendment) to HUD within the DRGR system.
- Grantee must sign and return the grant agreement to HUD.
- HUD will sign the grant agreement and establish the grantee's CDBG-DR line of credit amount to reflect the total amount of available funds.
- Grantee may draw down CDBG-DR funds from its line of credit after the Responsible Entity completes applicable environmental review(s) pursuant to 24 CFR part 58, or adopts another Federal agency's environmental review as authorized under the Appropriations Act and the Prior Appropriation, and, as applicable, receives from HUD or the state the Authority to Use Grant Funds (AUGF) form and certification.
- Grantee must amend and submit its projection of CDBG-DR expenditures and performance outcomes with the substantial amendment.

IV. Applicable Rules, Statutes, Waivers, and Alternative Requirements

This section of the notice describes rules, statutes, waivers, and alternative requirements that apply to each grantee receiving an allocation under this notice (unless otherwise noted). The Secretary has determined that good cause exists to apply each waiver and alternative requirement established in the Prior Notices to grantees receiving funds under this notice and that such waivers and alternative requirements are not inconsistent with the overall purpose of title I of the HCDA. The Secretary's determination of good cause extends to each waiver or alternative requirement as amended by this notice. Grantees are reminded that all fair housing and nondiscrimination requirements, as well as environmental and labor requirements, continue to apply. The following requirements apply only to the CDBG-DR funds appropriated under the

Appropriations Act (unless otherwise noted) and not to funds provided under the annual formula State or Entitlement CDBG programs, the Indian Community Development Block Grant program, or those provided under any other component of the CDBG program, such as the Section 108 Loan Guarantee Program, or any previous CDBG-DR appropriations, unless otherwise noted.

A grantee may request additional waivers and alternative requirements from the Department as needed to address specific needs related to its recovery activities, accompanied by data to support the request. Grantees are reminded that requirements related to nondiscrimination cannot be waived. Grantees should work with the assigned Community Planning and Development representatives to request any additional waivers or alternative requirements from HUD. Except where noted, the waivers and alternative requirements described below apply to all grantees under this notice. Pursuant to the requirements of the Appropriations Acts, waivers and alternative requirements are effective five days after they are published in the *Federal Register*.

Except as described in this notice or the Prior Notices, statutory and regulatory provisions governing the State CDBG program shall apply to state grantees receiving a CDBG-DR grant and statutory and regulatory provisions governing the entitlement CDBG program shall apply to any local government receiving a CDBG-DR grant. State and Entitlement CDBG regulations can be found at 24 CFR part 570. References to the action plan in these regulations shall refer to the action plan for disaster recovery required by this notice and the Prior Notices.

HUD amends the Prior Notices and waives the provisions of 24 CFR part 570, subpart F to authorize the Commonwealth of the Northern Mariana Islands and American Samoa to administer its CDBG-DR allocation in accordance with the regulatory and statutory provisions governing the State CDBG program, as modified by rules, statutes, waivers, and alternative requirements made applicable by *Federal Register* notices. This includes the requirement that the aggregate total for administrative and technical assistance expenditures by the

Commonwealth of the Northern Mariana Islands and American Samoa must not exceed 5 percent of any CDBG-DR grant made pursuant to the Appropriations Act, plus 5 percent of program income generated by the grant. Also, HUD extends the waivers and alternative requirements in the Prior Notices to Hawaii County, which is subject to requirements imposed in 24 CFR part 570, subpart F. However, because the Prior Notices do not include waivers and alternative requirements to the provisions in 24 CFR part 570, subpart F, HUD amends the Prior Notices and waives 24 CFR 570.420(c), 24 CFR 570.431(a), and 24 CFR 570.431(b) for Hawaii and Kauai Counties. The Department has determined that good cause exists for these waivers and that such waivers are not inconsistent with the overall purposes of title I of the HCDA.

Additionally, the February 9, 2018 notice required state grantees and subrecipients to attend fraud-related training provided by HUD OIG to assist in the proper management of CDBG-DR grant funds. With this notice, HUD is applying this provision to local government grantees allocated funds under the Prior Notices or this notice.

All references in this notice pertaining to timelines and/or deadlines are in terms of calendar days unless otherwise noted. The date of this notice shall mean the applicability date of this notice unless otherwise noted.

IV.A. Grant Administration

IV.A.1. *Use of administrative funds across multiple grants.* The Appropriations Act authorizes special treatment of grant administrative funds for grantees that received awards under certain CDBG-DR grants. Grantees that received awards under Public Laws 114-113, 114-223, 114-254, 115-31, 115-56, 115-123, and 115-254, or any future act may use eligible administrative funds (up to 5 percent of each grant award plus up to 5 percent of program income generated by the grant) appropriated by these acts for the cost of administering any of these grants without regard to the particular disaster appropriation from which such funds originated. If the grantee chooses to exercise this authority, the grantee must ensure that it has appropriate

financial controls to ensure that the amount of grant administration expenditures for each of the aforementioned grants will not exceed 5 percent of the total grant award for each grant (plus 5 percent of program income), review and modify its financial management policies and procedures regarding the tracking and accounting of administration costs, as necessary, and address the adoption of this treatment of administrative costs in the applicable portions of its submissions described in sections III.A. or III.B. of this notice that meet the requirements of section VI.A.1.a. of the February 9, 2018 notice (83 FR 5847), paragraphs (1) – (6), as updated and amended by section IV.B.1. of the January 2020 Notice (85 FR 4686). Grantees can address this through the submission of the “Pub. L. 116-20 and 115-254 CDBG-DR Financial Management and Grant Compliance Certification Checklist” Addendum B available on HUD’s website. Grantees are reminded that all costs incurred for administration must still qualify as an eligible administration expense.

IV.B. Waiver and Alternative Requirement related to Adjusted Income Limits for Grants under Public Laws 115–56, 115–123, and 116-20 (Commonwealth of Puerto Rico only)

In the August 14, 2018 notice (83 FR 40320), HUD provided the following adjustment to Puerto Rico’s income limits in accordance with section 102(a)(20)(B) of the HCDA:

“Section 102(a)(20) of the HCDA defines ‘persons of low- and moderate-income’ and ‘low- and moderate-income persons.’ Subparagraph (B) of this definition authorizes the Secretary to establish for any area percentages of median income that are higher or lower than the percentages defined as ‘low- and moderate-income’ under 102(a)(20)(A), if the Secretary finds such variations to be necessary because of unusually high or low family incomes in such areas. Due to the unusually low incomes in Puerto Rico, residents that meet the CDBG program definition of ‘low- and moderate-income’ by having incomes of 80 percent AMI or less, also remain below the Federal poverty level. Therefore, the Department is increasing the income limits for low- and moderate-income persons in Puerto Rico, which will be listed in income tables posted on HUD’s website. Under this adjustment, Puerto Rico may use these alternative

income limits when determining that activities undertaken with CDBG–DR funds meet the low- and moderate-income benefit CDBG national objective criteria. These income limits apply only to the use of CDBG–DR funds under this notice and the Prior Notice.”

In order to ensure consistency with the use of CDBG-DR funds that are governed by alternative income limits authorized by the Department, the Department is extending the income limit adjustments of the August 14, 2018 notice to all CDBG-DR funds allocated under Public Laws 115-56, 115-123, and 116-20 and to CDBG-MIT funds allocated to Puerto Rico for mitigation activities under Public Law 115-123. Under this extension, Puerto Rico may use these alternative income limits when determining that activities undertaken with CDBG–DR or CDBG-MIT funds meet the low- and moderate-income benefit CDBG national objective criteria. HUD will continue to post the applicable income tables online.

In addition, Puerto Rico may currently choose to take advantage of the waiver HUD issued in the February 9, 2018 notice (83 FR 5861) and the August 30, 2019 notice (84 FR 45863) to provide homeownership assistance for households earning up to 120 percent of the area median income (AMI). For consistency with HUD’s alternative income limits because of the unusually low incomes in Puerto Rico, the Department finds that good cause exists to make similar adjustments to the income limits for homeownership assistance activities authorized by the waiver in the February 9, 2018 notice. Therefore, HUD waives 42 U.S.C. 5302(a)(20) to the extent necessary to add the following alternative requirement. When HUD establishes percentages of median income that are higher or lower than the percentages defined as ‘low- and moderate-income’ under section 102(a)(20)(A) of the HCDA, HUD may also apply the same adjustments to revise other income limits that apply to the use of grant funds (with adjustments for smaller and larger families). For Puerto Rico, this alternative requirement authorizes HUD to annually publish adjusted income limits that apply whenever grant requirements necessitate the calculation of 120 percent of AMI. This waiver applies to Puerto Rico’s allocation of funds under the Prior Notices under Public Laws 115-56 and 115-123, funding for mitigation activities

under Public Law 115-23, and funding allocated under this notice or any other notice under Public Law 116-20.

IV.C. Waiver and Alternative Requirement related to Tourism and Business Marketing (Commonwealth of Puerto Rico and U.S. Virgin Islands only)

In the August 14, 2018 notice (83 FR 40322), the Department granted the Commonwealth of Puerto Rico a waiver and alternative requirement to create a new eligible tourism and marketing activity to use up to \$15,000,000 of CDBG–DR funds to promote the Commonwealth in general or specific communities, consistent with the amount allocated by the Commonwealth to promote travel and to attract new businesses to disaster-impacted areas in the action plan submitted to HUD pursuant to the February 9, 2018 notice. Additionally, in the August 14, 2018 notice (83 FR 40322), HUD granted the U.S. Virgin Islands (USVI) a waiver and alternative requirement to spend up to \$5,000,000 of CDBG–DR funds on tourism marketing activities to promote the Territory in general or specific components of the islands, consistent with the amount allocated by the USVI in the action plan submitted to HUD pursuant to the February 9, 2018 notice. HUD granted these waivers and alternative requirements to support economic recovery in areas that depend on the tourism industry following Hurricanes Irma and Maria. HUD increased each grantee’s cap on allowable tourism marketing activities to \$25 million to benefit disaster-impacted areas in a notice published February 19, 2019 (84 FR 4844-45).”

Both of these waivers and alternative requirements expire two years after the grantees’ first draw of CDBG–DR funds under the respective allocations. For both Puerto Rico and USVI, it is two years after their first draw of funds allocated in the February 9, 2018 notice. HUD has determined that the rapidly emerging needs of states and local governments in responding to the COVID-19 pandemic provides good cause to allow extensions of the expiration date for these waivers and alternative requirements established in *Federal Register* notices published on August 14, 2018 (83 FR 40322) and February 19, 2019 (84 FR 4844-45), as referenced above.

In response to the COVID-19 pandemic, HUD is providing a one-year extension of the previously established expiration deadlines for these two grantees.

V. Duration of Funding

The Appropriations Act makes the funds available for obligation by HUD until expended. This notice requires each grantee to expend 100 percent of its CDBG-DR grant on eligible activities within 6 years of HUD's initial obligation of funds under Public Laws 115-254 and 116-20 for a 2018 or 2019 disaster pursuant to an executed grant agreement. HUD may extend the period of performance administratively, if good cause for such an extension exists at that time, as requested by the grantee and approved by HUD. When the period of performance has ended, HUD will close out the grant and any remaining funds not expended by the grantee on appropriate programmatic purposes will be recaptured by HUD.

VI. Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers for the disaster recovery grants under this notice are as follows: 14.228 for State CDBG grantees and 14.218 for Entitlement CDBG Grantees.

VII. Finding of No Significant Impact

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI is available online on HUD's website and for public inspection between 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW, Room 10276, Washington, DC 20410-0500. Due to security measures at the HUD Headquarters building, an advance appointment to review the docket file must be scheduled by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number through

TTY by calling the Federal Information Relay Service at 800–877–8339 (this is a toll-free number).

John Gibbs,

Principal Deputy Assistant Secretary

for Community Planning and Development.

Billing Code 4210-67

Appendix A – Detailed Methodology

Allocation of CDBG–DR Funds to Most Impacted and Distressed Areas due to 2018 and 2019 Federally Declared Disasters

Background

Public Law 116-20 appropriated \$2,431,000,000 through the Community Development Block Grant Disaster Recovery (CDBG-DR) program. The funds were to be used to address specific infrastructure needs of select 2017 disasters and remaining unmet disaster recovery needs for disasters in 2018 and 2019, and then provide any remaining funds to support mitigation activities for 2018 disasters. On December 3rd, HUD announced allocations for all but \$272 million of available funds.

The remaining \$272 million have been held pending complete data for the remaining disasters of 2019 as well as updates to other select disasters of 2018 and 2019 due to extraordinary circumstances.

Methodology

Using data received from FEMA and the Small Business Administration (SBA) on May 11, 2020, HUD updated unmet needs for a select set of disasters in 2018 and 2019. The updated unmet needs are only for extraordinary circumstances:

- Hawaii County, HI (DR 4366, an additional \$23,720,000). *Extraordinary circumstance:* At the time of the December 2019 allocation FEMA Public Assistance (PA) estimates were still being discussed with state officials. The PA estimate at the time of the 2019 allocation was just \$1.5 million with local match (“unmet need”) of \$378,000. The updated data from FEMA is that DR 4366 has \$96 million in Category C to G needs with a \$24 million match requirement which substantially increases unmet needs.
- Northern Marianas (DR 4396 and DR 4404, an additional \$10,378,000). *Extraordinary circumstance:* FEMA’s Permanent Housing Construction (PHC) program is seldom activated by FEMA so it requires a special consideration for HUD’s calculation of unmet needs. In HUD’s December 3rd allocation announcement we had reduced the housing needs estimate for the Northern Marianas based on a FEMA early estimate that 455 homes would be repaired or replaced by the PHC program and thus would not need CDBG-DR assistance. At the time, the program was in its early implementation and the number of homes served was expected to change. Due to the unusual nature of this FEMA program, HUD requested from FEMA in May 2020 a revised estimate of how many homes would be served. That revised FEMA PHC estimate is that 300 homes are now expected to be served by PHC instead of the previously estimated 455 homes. This reduction in the FEMA PHC leads to an increase in the Northern Marianas unmet CDBG-DR need estimate by 155 homes.
- Texas (DR 4466, an additional \$14,769,000). *Extraordinary circumstance:* This disaster was declared on October 4th and the data used for the December 3rd allocation had been extracted from FEMA’s systems on November 15, 2019. In general, HUD’s experience is that FEMA data is most complete for the purpose of calculating CDBG-DR unmet

needs approximately 90 days after a disaster declaration. DR 4466 was the only disaster in 2019 that had been declared within 90 days of the November 15th data extraction. For this reason, HUD requested a refresh of the FEMA data for DR 4466 which identified 252 additional homes with serious damage than had been identified in the prior allocation leading to the increased estimate of need.

- Puerto Rico (DR 4473, \$36,424,000). *Extraordinary circumstance:* On December 28, 2019, Puerto Rico experienced a major disaster (DR 4473) that has continued for some months with continuing after-shocks. This is a disaster occurring in both 2019 and 2020. Because it initially occurred in 2019 it is eligible for funding from PL 116-20. However, this disaster is on-going. FEMA had closed the application period for the IHP program but due to a serious after-shock on May 2, 2020, FEMA reopened the application period for this disaster. This allocation is based on the data before FEMA reopened the application period.